

# **CITY COUNCIL AGENDA**

**MARCH 2, 2004**

# **SYNOPSIS**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
TERRY O. GREGORY  
DAVID D. CORTESE  
JUDY CHIRCO  
PAT DANDO, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.sanjoseca.gov/clerk/agenda.htm](http://www.sanjoseca.gov/clerk/agenda.htm)

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

9:33 a.m. - Closed Session, Room 600, City Hall  
**Absent Council Members: Dando, Gregory. (Excused)**

1:33 p.m. - Regular Session, Council Chambers, City Hall  
**Absent Council Members: Gregory. (Excused)**

7:00 p.m. - **Evening Session Canceled.**

- **Invocation (District 3)**

**Betty Martinez of Adelante Mujer Hispana recited an inspirational speech focusing on the history of women's suffrage in tribute to "National Women's History Month".**

- **Pledge of Allegiance**

**Mayor Gonzales led the Pledge of Allegiance.**

- **Orders of the Day**

**The Orders of the Day and the Amended Agenda were approved.**

## **1 CEREMONIAL ITEMS**

---

**There were none.**

## 2 CONSENT CALENDAR

---

### 2.1 Approval of Minutes.

**Recommendation:** Approval of City Council Minutes for:

- (a) Regular meeting of February 3, 2004
- (b) Joint Council/Santa Clara Valley Water District meeting of February 3, 2004
- (c) Regular meeting of February 10, 2004

**Approved.**

### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances:

- (a) ORD. NO. 27073 – Levys special taxes within Annexation Area No. 1 of Community Facilities District No. 8 (Communications Hill).  
**Ordinance No. 27073 adopted.**
- (b) ORD. NO. 27075 – Amends Section 20.90.060 of the San José Municipal Code to modify parking requirements for shopping centers and amends Part 4 of Chapter 20.100 to allow building additions of less than 500 square feet through the adjustment process.  
**Ordinance No. 27075 adopted.**
- (c) ORD. NO. 27076 – Amends Section 20.50.100 of the San José Municipal Code to clarify regulations pertaining to assembly uses and amends Part 9 of Chapter 20.100 to streamline the process for single family house permits.  
**Ordinance No. 27076 adopted.**
- (d) ORD. NO. 27077 – Amends Sections 20.100.130 and 20.100.140 of the San José Municipal Code to clarify the process of concurrent filing and processing of planned development rezoning and planned development permit applications.  
**Ordinance No. 27077 adopted.**
- (e) ORD. NO. 27078 – Adds new Sections to Chapter 20.110 and Chapter 20.200 of the San José Municipal Code authorizing the Director of Planning, Building and Code Enforcement to cancel and partially cancel Williamson Act Contracts.  
**Ordinance No. 27078 adopted.**
- (f) ORD. NO. 27079 – Rezones certain real property situated on the east side of Minnesota Avenue, approximately 490 feet southerly of Dorothy Avenue, to A(PD) Planned Development Zoning District. PDC 03-064  
**Ordinance No. 27079 adopted.**

## 2 CONSENT CALENDAR

---

### 2.2 Final adoption of ordinances (Cont'd.)

- (g) ORD. NO. 27080 - Rezones certain real property situated at the west side of Park Avenue, approximately 50 feet northerly of Emory Street, to CN Commercial Neighborhood Zoning District. C 03-091

**Ordinance No. 27080 adopted.**

- (h) ORD. NO. 27081 - Rezones certain real property located on the northeast corner of Rhodes Court and The Alameda to A(PD) Planned Development Zoning District. PDC 03-054

**Ordinance No. 27081 adopted.**

- (i) ORD. NO. 27082 - Rezones certain real property located on the west side of Saratoga Avenue, approximately 200 feet southerly of Graves Avenue, to A(PD) Planned Development Zoning District. PDC 03-061

**Ordinance No. 27082 adopted.**

### 2.3 Adoption of a resolution ordering the annexation of McKee No. 120.

**Recommendation:** Adoption of a resolution ordering the reorganization of territory designated as McKee No. 120, which involves annexation to the City of San José of 5.37 acres of land, more or less, consisting of three parcels totaling approximately 4.80 acres and a portion of Hyland Avenue totaling approximately 0.57 acre, located at Hyland Avenue between Marian Lane and Maro Drive, and adjacent to the City of San José annexation McKee No. 91, and the detachment of the same from Santa Clara County Central Fire Protection District, Santa Clara County Lighting District, Santa Clara (Library Services) County Service, Area No. 1, County Sanitation District 2-3, and the Library Benefit Assessment County Service Area No. 1. CEQA: Mitigated Negative Declaration, PDC01-082. Council District 5. (Planning, Building and Code Enforcement)

**Resolution No. 71974 adopted.**

### 2.4 Approval of action related to the annexation of Burbank No. 37.

**Recommendation:** Adoption of a resolution initiating proceedings and setting March 16, 2004 at 1:30 p.m. for Council consideration on the reorganization of territory designated as Burbank No. 37 which involves the annexation to the City of San José of 0.11 acre of land more or less, located on the east side of North Bascom Avenue, approximately 160 feet southerly of Forest Avenue and adjacent to the City of San José annexation Burbank No. 34, and the detachment of the same from Burbank Sanitary, County Lighting Services, Central Fire Protection, Area No. 01 (Library Services) County Services. CEQA: GP2020 Resolution No. 65459. Council District 6. SNI: Burbank/Del Monte. (Planning, Building and Code Enforcement)

**Resolution No. 71975 adopted.**

## 2 CONSENT CALENDAR

---

### 2.5 Approval to submit a grant application for the 21<sup>st</sup> Century Community Learning Centers.

**Recommendation:**

Adoption of a resolution authorizing the City Manager to:

- (a) Submit a grant application to the State Department of Education for 21<sup>st</sup> Century Community Learning Centers in a total amount not to exceed \$4,875,000 over a period of five years; and
- (b) Negotiate and execute a grant agreement not to exceed \$975,000 annually beginning July 1, 2004 and ending on June 30, 2009, subject to appropriation of funds.

CEQA: Exempt, PP04-02-026. (Parks, Recreation and Neighborhood Services)

**Resolution No. 71976 adopted.**

**Staff requested to forward a list of the 13 additional school sites to be operated as 21<sup>st</sup> Century Community Learning Centers.**

### 2.6 Approval to amend an agreement for the Almaden Winery Community Center Seismic Retrofit Project.

**Recommendation:** Approval of the first amendment to the agreement with Garcia Teague Architecture + Interiors for architectural consultant services for the Almaden Winery Community Center Seismic Retrofit Project, increasing compensation for design services by \$17,800, for a total agreement amount not to exceed \$217,800 and shortening the term of the agreement from June 30, 2004 to March 2, 2004. CEQA: Not a Project. Council District 10. (Public Works)

**Approved.**

### 2.7 Approval to amend an agreement for professional program management consultant services.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a first amendment to the master agreement with Gilbane Building Company for continuation of park bond program management services through June 30, 2004 and increase the master agreement compensation in the amount of \$198,000, from \$1,850,000 to a maximum amount not to exceed \$2,048,000. CEQA: Not a Project. (Public Works/ Parks, Recreation and Neighborhood Services)

**Resolution No. 71977 adopted.**

### 2.8 Approval to award a contract for the School Access Enhanced Crosswalks Project.

**Recommendation:** Report on bids and award of contract for the School Access Enhanced Crosswalks Project to the low bidder, Pacific Electric Company, in the amount of \$412,770, and approval of a contingency in the amount of \$41,000. CEQA: Exempt, PP03-12-389. (Public Works/Transportation)

**Approved.**

## 2 CONSENT CALENDAR

---

### 2.9 Approval to award a contract for the Seismic Safety Retrofit Project - Tully Road Bridge at Coyote Creek.

**Recommendation:** Report on bids and award of contract for the Seismic Safety Retrofit Project - Tully Road Bridge at Coyote Creek to the low bidder, ACC West Coast, Inc., in the amount of \$246,575, and approval of a contingency in the amount of \$37,000. CEQA: Exempt, PP 04-11-215. Council District 7. (Public Works/Transportation)

**Approved.**

### 2.10 Approval to amend an agreement for the Proactive Signal Retiming Project.

**Recommendation:** Approval of the first amendment to the agreement for consultant services with Kimley-Horn and Associates, to amend the scope of services for the implementation of the Proactive Signal Retiming Project, increasing the maximum compensation by \$205,000, from \$500,000 to an amount not to exceed \$705,000, and extend the term of the agreement by 18 months to September 30, 2005. CEQA: Exempt, PP04-01-016. Council Districts 1, 6, 8 and 10. SNI: 13<sup>th</sup> Street/East Valley-680/University. (Transportation)

**Approved.**

**Staff requested to add “Cypress Avenue to Winchester Boulevard”, as a SNI designation on Attachment 1.**

## 3 STRATEGIC SUPPORT SERVICES

---

### 3.1 Report of the Study Session Mayor Gonzales, Chair No Report.

### 3.2 Report of the Rules Committee - Meeting of February 18, 2004 Vice Mayor Dando, Chair

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review March 2, 2004 Draft Agenda

**The Committee recommended approval of the March 2, 2004 City Council Agenda.**

(2) Add New Items to February 24, 2004 Amended Agenda

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

**There were no changes to the February 24, 2004 City Council agenda.**

### 3 STRATEGIC SUPPORT SERVICES

---

#### 3.2 Report of the Rules Committee - Meeting of February 18, 2004 (Cont'd.) Vice Mayor Dando, Chair

- (b) City Council (Cont'd.)
  - (3) List of Reports Outstanding  
**The Committee noted and filed the City Manager's report listing two staff reports outstanding for the February 24, 2004 Council agenda.**
- (c) Legislative Update
  - (1) State
    - (a) Approve City positions on March 2004 State Ballot Propositions  
**This item was reported at the February 24, 2004 Council meeting.**
  - (2) Federal  
**There was no report.**
- (d) Meeting Schedules  
**There were none.**
- (e) The Public Record  
**The Committee noted and filed the Public Record.**
- (f) Appointment to Boards, Commissions and Committees  
**There were none.**
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) City Attorney's response to Council Member Cortese's request to expand the role of Project Diversity Screening Committee and request for Proposition 209 history  
**The Committee continued this item to next week's Rules Committee meeting.**
  - (2) Request for recommendations to donate or sell surplus 1994 Chevrolet Suburban utility vehicle  
**The Committee approved General Services' designation of a 1994 Chevrolet Suburban utility vehicle as surplus property eligible for donation or sale.**
- (h) Oral communications  
**None were presented.**
- (i) Adjournment  
**The meeting was adjourned at 2:35 p.m.**



### **3 STRATEGIC SUPPORT SERVICES**

---

#### **3.2 Report of the Rules Committee - Meeting of February 25, 2004 (Cont'd.) Vice Mayor Dando, Chair**

##### **Meeting of February 25, 2004 (partial)**

- (c) Legislative Update
  - (1) State
    - (a) Report on Proposed State Bills Pertaining to Megan's Law  
**See Item 3.5 for Council action taken.**

**The Rules/Partial Rules Committee Report, and the Actions of February 18, 2004, and February 25, 2004, were accepted.**

#### **3.3 Report of the Making Government Work Better Committee Council Member Campos, Chair No Report.**

#### **3.4 Approval of appointment to the Project Diversity Screening Committee and appointment of Chair.**

**Recommendation:** Approval of one Mayor appointment to Project Diversity Screening Committee and appointment of Chair. (Mayor)

[Deferred from 2/17/04 – Item 3.5(b) and 2/24/04 – Item 3.4]

**Approved.**

#### **3.5 Approval of City positions in support of proposed State bills pertaining to Megan's Law.**

**Recommendation:** Approval of support positions for each of the proposed State bills pertaining to Megan's Law:

- (a) AB 488 (Parra), which would provide that public dissemination of sex offender information pursuant to Megan's Law shall occur through an Internet Web site operated by the Department of Justice (DOJ), as specified.
- (b) With amendments, AB 1224 (Diaz), which states legislative intent to improve the sex offender database upon a Budget Act appropriation.
- (c) SB 650 (Battin), which would repeal the January 1, 2007 sunset date on Megan's Law.

[Rules Committee referral 2/25/04 – Item 3.2 (c)(1)(a)]

**Approved.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

---

- 4.1 Report of the Building Strong Neighborhoods Committee**  
**Council Member Chavez, Chair**  
**No Report.**

- 4.2 Report of the Driving a Strong Economy Committee**  
**Council Member Williams, Chair**  
**No Report.**

## **5 RECREATION & CULTURAL SERVICES**

---

- 5.1 Report of the All Children Achieve Committee**  
**Council Member Yeager, Chair**  
**No Report.**

- 5.2 Approval of a Joint Use Agreement for the San Tomas Aquino/Saratoga Creek Trail (Reach 6).**

**Recommendation:** Approval of a Joint Use Agreement between the County of Santa Clara and the City of San José for the construction and use of the San Tomas Aquino/Saratoga Creek Trail Reach 6. CEQA: Addendum to Negative Declaration, March 27, 2003, PP03-03-084. Council District 1. (Parks, Recreation and Neighborhood Services)

**Approved.**

## **6 TRANSPORTATION SERVICES**

---

- 6.1 Report of the Building Better Transportation Committee**  
**Council Member Cortese, Chair**  
**No Report.**

## **7 ENVIRONMENTAL & UTILITY SERVICES**

---

### **7.1 Approval of actions related to access, overflow, and pipelines for property located near Old Yerba Buena Road.**

**Recommendation:** Adoption of a resolution:

- (a) Determining that public use and necessity require the acquisition of:
  - (1) Fee title to a portion of property located near Old Yerba Buena Road, owned by Legacy Partners, LLP for a recycled water storage facility site; and
  - (2) Permanent easements for access, overflow, and pipelines.
  - (3) Temporary construction easements (TCE) for recycled water storage facility access, pipelines, and overflow drains.
- (b) Finding that:
  - (1) The property to be taken is necessary for the completion of the Zone 3 recycled water storage facility project;
  - (2) The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
  - (3) City staff established an amount of just compensation not less than the approved appraisal of the fair market value and,
  - (4) City staff presented an offer to the owners for the full appraised amount; and
  - (5) The proposed taking and use are authorized by law;
- (c) Directing the City Attorney to file an eminent domain action to acquire the above property interests.

CEQA: Negative Declaration, PP00-05-072. Council District 8. (Public Works/Environmental Services)

(Deferred from 2/24/04 – Item 7.2)

**Item 7.1 was dropped.**

## **8 AVIATION SERVICES**

---

### **8.1 Approval of change orders for the Interim Federal Inspection Services Facility Project and the Airport Security System Upgrade Project.**

**Recommendation:**

- (a) Approval of Contract Change Order No. 22 for the Interim Federal Inspection Services Facility Project with SJ Amoroso Construction Company for a credit in the amount of \$474,416.
- (b) Approval of Contract Change Order No. 12 for the Airport Security System Upgrade Project in the amount of \$540,884 for a total contract amount of \$3,729,449.
- (c) Approval to increase the construction contingency amount for the Airport Security System Upgrade Project by \$540,884 from \$290,000 to \$830,884.

CEQA: Resolution Nos. 67380 and 71451, PP 04-01-021. (Public Works)

**Approved.**

## **9 PUBLIC SAFETY SERVICES**

---

## **10 JOINT COUNCIL/REDEVELOPMENT AGENCY**

---

- **Closed Session Report**  
**No Report.**

- **Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

**None.**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

**None.**

- **Open Forum**

- (1) Hugh Cloutier, San José Horseshoe Pitching Club, spoke in regard to the issue of relocating the horseshoe pits from Senter Park to another site.**
- (2) Stephen Hazel spoke of recent activities at a San José crime scene.**
- (3) Ross Signorino added that women did not win the right to serve on juries until after World War II.**
- (4) William Garbett spoke of issues related to construction at Highway 87.**

## **11 PUBLIC HEARINGS**

---

**The Evening Session was canceled.**

- **Adjournment**

**The Council of the City of San José was adjourned in memory of Eusevio “Ike” Hernandez, former Deputy Chief of Police, and employee of the San José Police Department for 31 years; in memory of Patrick Horrigan, retired Sunnyvale Public Safety Officer and father of Meghan Horrigan, Mayor's office and Sheelagh Horrigan-Carleton, Council District 5; also in memory of Kulwant Singh, Satnam Singh, and Hari Singh.**

**The Council of the City of San José was adjourned at 1:58 p.m.**